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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,614	12/30/2003	Eugenio Go Varona	19687	7490
23556	7590	03/30/2006		
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			EXAMINER PIZIALI, ANDREW T	
			ART UNIT	PAPER NUMBER

1771

DATE MAILED: 03/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/748,614

Applicant(s)

VARONA ET AL.

Examiner

Andrew T. Piziali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 8-10 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 11 and 13-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/11/05 & 5/24/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Species 6 in the reply filed on 1/30/2006 is acknowledged. Claims 8-10 and 12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-7, 11 and 13-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1-7, 11 and 13-19, claims merely setting forth physical characteristics desired in article (a first layer capable of holding and releasing cleaning fluid and a second layer having a lesser affinity for the cleaning fluid), and not setting forth specific compositions which would meet such characteristics, are invalid as vague, indefinite, and functional since they cover any conceivable combination of ingredients either presently existing or which might be discovered in future and which would impart desired characteristics. *Ex parte SLOB*, 157 USPQ 172.

Regarding claim 17, the claim recites the "web comprises" (singular), however, claim 7 (from which claim 17 depends) recites two coform webs. It is unclear which coform web claim 17 is referring to.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 6-7, 11 and 18-19 are rejected under 35 U.S.C. 102(a) as being anticipated by WO 03/050347 to Bergholm et al. (hereinafter referred to as Bergholm).

Regarding claims 1-2, 6-7, 11 and 18-19, Bergholm discloses a wet wipe comprising a cleaning fluid and a laminate wherein the laminate comprises a first layer (hydrophilic and hydrophilic fibers) comprising a web capable of holding and releasing the cleaning fluid, and a second layer (just hydrophobic fibers) adjacent the first layer having a lesser affinity for the cleaning fluid than the first layer (see entire document including page 3, lines 22-27).

Considering that Bergholm discloses that the first layer comprises hydrophobic and hydrophilic fibers while the second layer consists of hydrophobic fibers, the second layer inherently satisfies the currently claimed equation.

Regarding claims 2, 6-7, 11 and 18-19, Bergholm discloses that the wet wipe comprises a third layer (hydrophilic and hydrophobic fibers) capable of holding and releasing the fluid (page 3, lines 22-27). Considering that Bergholm discloses that the first and third layers comprises hydrophobic and hydrophilic fibers while the second layer consists of hydrophobic fibers, the second layer inherently satisfies the currently claimed equation.

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Regarding claims 6-7, 11 and 19, Bergholm discloses that the second layer may comprise a nonwoven coform web of hydrophobic and hydrophilic fibers (page 3, line 22 through page 4, line 6).

Regarding claim 11, Bergholm discloses that the coform nonwoven webs may comprise hydrophobic (thermoplastic) fibers and hydrophilic (pulp) fibers in the first and second layers in a ratio of 30:70 to 70:30 (page 5, lines 26-27).

Regarding claims 18 and 19, Bergholm discloses that the first and third layers may each have a basis weight of 15 g/m<sup>2</sup> and the second layer may have a basis weight of 20 g/m<sup>2</sup> (page 9, lines 15-18).

6. Claims 1-6 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 4,469,740 to Bailly.

Regarding claims 1-6 and 13-14, Bailly discloses a wet wipe comprising a cleaning fluid (body perspiration) and a laminate wherein the laminate comprises a first layer (hydrophilic fibers) comprising a web capable of holding and releasing the cleaning fluid, and a second layer (foamed thermoplastic) adjacent the first layer having a lesser affinity for the cleaning fluid than the first layer (see entire document including column 1, lines 12-26, column 2, lines 8-25 and column 3, lines 10-17). Considering that Bailly discloses that the fluid is wicked through the foamed layer to the hydrophilic fiber layer (column 4, lines 51-65), the second (foamed) layer would inherently possess no fluid.

Regarding claims 2-6 and 14, Bailly discloses that the wet wipe comprises a third layer (hydrophobic fibers) capable of holding and releasing the fluid (column 2, lines 8-25 and column 3, lines 10-17). Bailly also discloses that the fluid is wicked through the foamed layer to the

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hydrophilic fiber layer (column 4, lines 51-65), therefore, the second (foamed) layer would inherently possess no fluid.

Regarding claims 3 and 4, Bailly discloses that the foamed layer allows the cleaning fluid to pass between the hydrophobic layer and the hydrophilic layer (column 4, lines 51-65) and that the foamed layer comprises at least 35% of the thickness of the laminate (see Figures 1-3).

Regarding claim 6, Bailly discloses that the hydrophobic and hydrophilic layers may be nonwoven webs (column 3, line 53 through column 4, line 6).

Regarding claims 13 and 14, Bailly discloses that the foamed layer may be a closed cell foam (column 3, lines 10-17).

7. Claims 1-2 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 4,961,418 to McLaurin-Smith.

Regarding claims 1-2 and 13-14, McLaurin-Smith discloses a wet wipe comprising a cleaning fluid (body perspiration) and a laminate wherein the laminate comprises a first layer (knitted nylon fabric with interwoven yarn) comprising a web capable of holding and releasing the cleaning fluid, and a second layer (closed cell foam) adjacent the first layer having a lesser affinity for the cleaning fluid than the first layer (see entire document including column 2, lines 33-43). Considering that McLaurin-Smith discloses that second layer is a layer of closed cell foam, the second layer would inherently possess no fluid.

Regarding claim 2, McLaurin-Smith discloses that the wet wipe comprises a third layer (nylon single-jersey knit) capable of holding and releasing the fluid (column 2, lines 33-43).

Regarding claims 13 and 14, McLaurin-Smith discloses that the second layer may be a closed cell foam (column 2, lines 33-43).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3-5 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 03/050347 to Bergholm as applied to claims 1-2, 6-7, 11 and 18-19 above, and further in view of USPN 5,755,906 to Achter et al. (hereinafter referred to as Achter).

Regarding claims 3-5, Bergholm discloses that the second layer allows the cleaning fluid to pass between the first and third layer (page 4, lines 4-6). Bergholm does not appear to mention the specific thickness of the second layer, but Bergholm does not limit the thickness of the second layer and specifically mentions the second layer comprising 40% of the total basis weight of the laminate (page 9, lines 15-18). It would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the thickness of the second layer, such as to at least 35% of the thickness of the laminate, because it is understood by one of ordinary skill in the art that the layer thickness determines properties such as fluid watability and fluid releasability and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claims 3-5 and 13-17, Bergholm discloses that the second layer may consist of a nonwoven layer of hydrophobic fibers (page 3, lines 22-27), but Bergholm does not appear to mention a second layer of closed cell foam. Achter discloses that it is known in the wipe/absorbent pad art that a closed cell foam is a functionally equivalent viable alternative to a

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nonwoven layer of hydrophobic fibers (see entire document including the paragraph bridging columns 4 and 5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the second layer from any suitable material, such as a nonwoven layer of hydrophobic fibers or a closed cell foam, as taught by Achter, because the materials are functionally equivalent viable alternatives and because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability and desired characteristics. The second layer, consisting of a closed cell foam, would inherently possess no fluid because the material does not absorb fluid.

Regarding claim 17, Bergholm discloses that the coform nonwoven webs may comprise hydrophobic (thermoplastic) fibers and hydrophilic (pulp) fibers in the first and second layers in a ratio of 30:70 to 70:30 (page 5, lines 26-27).

10. Claims 7, 11 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 4,469,740 to Bailly as applied to claims 1-6 and 13-14 above, and further in view of USPN 4,864,740 to Oakley.

Regarding claims 7, 11 and 15-17, Bailly does not appear to mention the use of coform nonwoven webs, but Oakley discloses that it is known in the shoe insole art to add antimicrobial agents, fragrance, and or neutralizing or odor-absorbing agents, such as activated carbon, to the layers of a shoe insole laminate structure (see entire document including column 2, line 61 through column 3, line 21). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the nonwoven webs from any suitable nonwoven material, such as coform webs comprising antimicrobial agents, fragrance, and or neutralizing or odor-absorbing agents, such as activated carbon, as taught by Oakley, because it has been held to



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be within the general skill of a worker in the art to select a known material on the basis of its suitability and desired characteristics.

Regarding claims 7, 11 and 15-17, Bailly does not appear to mention the use of coform nonwoven webs comprising pulp and thermoplastic filaments, but Oakley discloses that it is known in the shoe insole art to use nonwoven webs comprising about 50% pulp and 50% thermoplastic fibers to about 80% pulp and 20% thermoplastic fibers (column 2, lines 39-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the nonwoven webs from any suitable nonwoven material, such as nonwoven webs comprising about 50% pulp and 50% polymer fibers to about 80% pulp and 20% polymer fibers, as taught by Oakley, because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability and desired characteristics.

Regarding claims 15-17, Bailly discloses that the foamed layer may be a closed cell foam (column 3, lines 10-17).

Regarding claim 16, considering that Bailly discloses that the fluid is wicked through the foamed layer to the hydrophilic fiber layer (column 4, lines 51-65), the second (foamed) layer would inherently possess no fluid.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew T. Piziali whose telephone number is (571) 272-1541. The examiner can normally be reached on Monday-Friday (8:00-4:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

atp

 2/23/06  
**ANDREW T. PIZIALI**  
**PATENT EXAMINER**